IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 306 Of 2006.

Date of decision: 26.12.2006

Miss Alka **….Petitioner**

Versus

H.P. University & Another **….Respondents.**

Coram

The Hon'ble Mr.Justice Deepak Gupta,J.

The Hon'ble Mr.Justice Surinder Singh,J.

Whether approved for reporting ?[1]

For the Petitioner: **Mr Naresh K Thakur, Advocate.**

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For Respondent No.1: **Mr. S R Sharma, Advocate.**

For respondent No.2 **Mr Rajnish Maniktala, Advocate.**

Deepak Gupta,J. (Oral)

The petitioner was granted admission in the course of Bachelor of Business Administration (Ist Year Course) for the Academic Session 2005-2006. It is the admitted case of the respondents that she had secured this admission on her own merit, based on the fact that she had got requisite marks in the qualifying examination. The petitioner appeared in the Ist Year of BBA Course in the examination held in the year 2006 but

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgement?***

her result was not declared by respondent No.1 because in the meantime respondent No.1 thought, after scrutiny of her record, that she had wrongly been selected and admitted in the aforesaid course in as much as she having been placed in compartment in 10+2 examination, as per Clause No.1.4 of the Ordinances of the University she was not eligible for admission in this course. Despite the fact that the petitioner had appeared in the Ist Year Examination, on the aforesaid ground respondent No.1 did not declare her result of Ist Year Examination with the consequence that despite the 2nd Year classes having started in August, 2006 the petitioner was debarred and prevented from attending the classes of 2nd Year.

In the reply filed by respondent No.1 repeated reliance is placed upon Clause 1.4 of the Ordinances and repeatedly, in para after para respondent No.1 has been averring that Clause 3.7 of the Ordinances does not apply to the admissions in BBA Course and that this Clause (3.7) applies only for general admissions, implying thereby that the admissions to BBA Course are excluded from the purview of Clause 3.7 of the Ordinances.

A Division Bench of this Court vide judgment dated 27th December, 2005 rendered in CWP 1184 of 2005,

while dealing with an exactly similar and identical fact situation and while confronted with the aforesaid Clause 1.4 of the Ordinances clearly held that because of the application of Clause 3.7 of the Ordinances with respect to BCA Course, provisional admission is permissible to such a candidate who was placed in compartment in 10+2 examination subject of course to the condition that he/she clears 10+2 examination within two chances and such event taking place, the provisional admission would stand regularized. We find that there is no difference between BCA and BBA courses and, therefore, the said judgment is applicable on all fours to the facts of this case. In CWP No.986 of 2006, with regard to BCA course, this court has again taken same view. It is the admitted case of respondent No.1 that the petitioner did clear her 10+2 compartment examination within two chances.

For the foregoing reasons this petition succeeds. The action of respondent No.1 in withholding the result of the petitioner is quashed and set aside. Respondent No.1 is directed to declare the result of the petitioner before 4.00 P.M. tomorrow. If the petitioner passes the Ist Year Examination, she shall be admitted in the 2nd Year Course immediately and forthwith. If in the process there is any deficiency in the attendance etc. this short fall shall be made up by respondent No.1

by taking such appropriate steps as are required for this purpose.

Based upon the aforesaid observations and because of the fact that the petitioner has not only been harassed, injured as well as prejudiced, but has also been driven to this avoidable litigation, she is awarded costs of Rs.3,000/- which shall be paid to her by respondent No.1 within two weeks from today.

CMP No.466 of 2006.

In view of the order passed in the main writ petition, interim order dated 13th April,2006 is vacated. The application stands disposed of.

(Deepak Gupta),J.

December 26, 2006 **(Surinder Singh),J.**
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